IN THE SUPREME COURT OF IOWA



Request for Public Comment)
Regarding Proposed Amendments) Order
to the Rules of Civil Procedure:)
Interstate Depositions and)
Discovery)

In August 2009, the Conference of Chief Justices approved a resolution recommending adoption of the substance of the Uniform Interstate Depositions and Discovery Act. The Act was promulgated by the Uniform Law Commission.

According to the Uniform Law Commission:

The Act sets forth an efficient and inexpensive procedure for litigants to depose out of state individuals and for the production of discoverable materials that may be located out of state. Uniform procedures have become necessary as the amount of litigation involving individuals and documents located outside of the trial state has increased.

Under the Uniform Interstate Depositions and Discovery Act, litigants can present a clerk of the court located in the state where discoverable materials are sought with a subpoena issued by a court in the trial state. Once the clerk receives the foreign subpoena, the clerk will issue a subpoena for service upon the person or entity on which the original subpoena is directed. The terms of the issued subpoena must incorporate the same terms as the original subpoena and contain the contact information for all counsel of record and any party not represented by counsel.

The Act requires minimal judicial oversight and eliminates the need for obtaining a commission or local counsel in the discovery state, letters rogatory, or the filing of a miscellaneous action during the discovery phase of litigation. Discovery authorized by the subpoena is to comply with the rules of [the] state in which it occurs. Furthermore, motions to quash, enforce, or modify a subpoena issued pursuant to the Act shall be brought in and governed by the rules [of] the discovery state.

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According to the Commission, 19 states have adopted the Act either by

court rule or statutory enactment.

The Iowa Supreme Court Advisory Committee on Rules of Civil Procedure

recommends adoption of the substance of the Act with some modifications

reflecting Iowa's subpoena process that authorizes an attorney licensed to

practice law in Iowa to issue a subpoena.

The supreme court seeks public comment on the proposed amendments

prior to taking further action on them. The proposed amendments can be

found at www.iowacourts.gov/ Supreme_Court/Orders/. In addition, copies

are available at the office of the Clerk of the Iowa Supreme Court.

Any interested organization, agency, or person may submit written

comments. Comments about a proposed rule must refer to the specific rule

number (for example, Rule 9.3(2)) and the specific numbered line or lines to

which the comments are directed. Comments sent by email must be e-mailed

to rules.comments@iowacourts.gov, must state "civil rules" in the subject

line of the e-mail, and must be sent as an attachment to the e-mail in

Microsoft Word format. Instead of submission by email, comments may be

delivered in person or mailed to the Clerk of the Supreme Court, 1111 East

Court Avenue, Des Moines, Iowa, 50319. The deadline for submitting

comments is 4:30 p.m. on January 31, 2012.

Dated this 2nd day of December, 2011.

THE SUPREME COURT OF IOWA

Mark S. Cady, Chief Justice